

Hearing Date and Time: October 24, 2011 at 10:00 a.m.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:
	: Chapter 11
DPH HOLDINGS CORP, et al,	:
	: Case No. 05-44481 (RDD)
Reorganized Debtors.	: (Jointly Administered)
-----	X
DELPHI AUTOMOTIVE SYSTEMS, LLC,	:
	:
Plaintiff,	: Adv. Proc. No. 07-02688 (RDD)
	:
v.	:
	:
THE TIMKEN COMPANY and THE	:
TIMKEN CORPORATION,	:
	:
Defendants.	:
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**OPPOSITION OF THE TIMKEN COMPANY AND THE TIMKEN CORPORATION IN
OPPOSITION TO REORGANIZED DEBTORS' AMENDED OMNIBUS RESPONSE TO
CERTAIN DEFENDANTS' SUBMISSION REGARDING THE OCTOBER 2, 2009
SUPPLEMENTAL POSTCONFIRMATION EXTENSION OF AVOIDANCE ACTION
SERVICE DEADLINE MOTION**

The Timken Company and The Timken Corporation (collectively “Timken”), by their attorneys, Moses & Singer LLP, submit this Opposition (the “Opposition”) to the Reorganized Debtors’ (the “Debtors”) Amended Omnibus Response to Certain Defendants’ Submissions Regarding the October 2, 2009 Supplemental Postconfirmation Extension of Avoidance Action Service Deadline Motion (the “Debtor’s Amended Omnibus Response”).

ARGUMENT

As set forth in the Declarations of James Sullivan and Michael Hart, each dated July 12, 2011 (Docket Nos. 21479, 21480), and the Declarations of James Sullivan and Robert Morris filed in connection with this Opposition, and Timken’s prior pleadings in this case, the notice Timken received in connection with the Final Extension Motion was inadequate. First, the Debtors failed to serve counsel for Timken with the Final Extension Motion by any means despite requests from Timken and its counsel that any pleadings to be served upon Timken be served upon its counsel, James Sullivan. The Debtors’ failure to serve Timken’s counsel rendered service on Timken directly a nullity.

In addition, even if the failure to serve Timken’s counsel did not render service upon Timken directly a nullity, service upon Timken was inadequate for a number of reasons. First, the Notice of Appearance filed by Timken in the beginning of the case in which it requested that copies of pleadings be served upon Robert Morris asked that it be mailed to Robert Morris at the address provided, not sent electronically (see Declaration of James Sullivan dated 10-18-11). Thus, the notice was not sent by the requested means. Second, as a result of the large amount of pleadings filed and served in the cases, the fact that Timken had already settled and sold its claims in the cases (and thus had no incentive to review the pleadings), the fact that the Final Extension Motion did not refer to Timken, and that Timken was not directed to review the Final

Extension Motion by its counsel (who was not served with the motion), Timken (i) did not, and would not have known to, review the Final Extension Motion and (ii) would not have believed that the Final Extension Motion would have pertained to Timken. Finally, the service of the Final Extension Motion upon Timken was inadequate because it was not filed by overnight mail as required under the Court's Case Management Order.

JOINDER

Timken hereby incorporates by reference herein all of the other meritorious arguments raised by the other preference defendants in any pleading, declaration, or memorandum of law filed in response to the Debtor's Amended Omnibus Response, including but not limited to those filed by the Methode Electronics, Inc. (Docket No. 21617 and 21650), Methode Electronics, Inc. (Docket No. 21619), Rieck Group, LLC (Docket No. 21624), Microchip Technology Incorporated (Docket No. 21621), and Detroit Products International, LLC (Docket No. 21637).

WHEREFORE, for the foregoing reasons, Timken respectfully requests that the Court vacate the Fourth Extension Order and enter an Order dismissing the above-captioned adversary proceeding.

Respectfully submitted,

MOSES & SINGER LLP

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Dated: October 18, 2011